UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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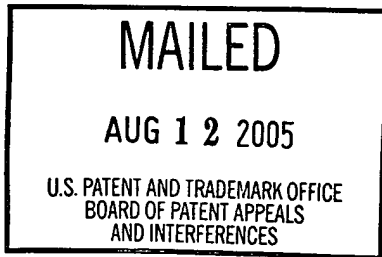
Ex parte DERMOT TIMOTHY O'BRIEN

Appeal No. 2005-1772
Application No. 09/434,268[1]

ON BRIEF

Before HAIRSTON, LEVY and SAADAT, <u>Administrative Patent Judges</u>.
SAADAT, <u>Administrative Patent Judge</u>.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1-6, 8-11 and 18-27. Claims 7, 12-17 and 28 have been canceled.

We reverse.

BACKGROUND

Appellant's invention is directed to a method for dynamic modification of parameters existing within computing systems without requiring the skills of a computer programmer and incurring cost and lost time.

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[1] Application for patent filed November 5, 1999.

Representative independent claim 1 is reproduced below:

1.   A method for maintaining parameter data in a computing
     system, comprising the steps of:

(a) creating a text file of meta data for parameters;

(b) representing said text file as a Graphical User
     Interface (GUI) having a navigator panel and an edit
     panel, wherein the navigator panel shows, for the text
     file, a structure for the parameters;

     (b1) showing in the edit panel, responsive to a user
          selecting one of the parameters in the navigator
          panel;

          the one of the parameters in a parameter field,
          and

          one or more attribute sub-fields for the selected
          one of the parameters, each of said sub-fields
          being text editable;

     and

(c) storing attribute text entered in any said sub-field to
     a data store.

The Examiner relies on the following references in rejecting

the claims:

Betawar et al. (Betawar)   6,415,193   Jul. 2, 2002
                                            (filed Jul. 8, 1999)

Burkett et al. (Burkett)   6,476,828   Nov. 5, 2002
                                            (filed May 28, 1999)

Claims 1-6, 8-11 and 18-27 stand rejected under 35 U.S.C.

§ 103(a) as being unpatentable over Burkett and Betawar.

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Rather than reiterate the opposing arguments, reference is made to the briefs and answer for the respective positions of Appellant and the Examiner. Only those arguments actually made by Appellant have been considered in this decision. Arguments which Appellant could have made but chose not to make in the brief have not been considered (37 CFR § 41.67(c)(1)(vii)).

<div align="center">OPINION</div>

The Examiner relies on Burkett for teaching a system for building and displaying dynamic graphical user interfaces, except for "creating a text file of parameter meta data even though the XML data group implies a file of data (answer, page 5). The Examiner further relies on Betawar for teaching the missing editing parameter-level information and states that such combination would have taught the claimed subject matter (id.).

Appellant argues that "representing" data and using a Graphical User Interface (GUI) to change data that was used to build the GUI is different from what the Examiner cited in Burkett teaching "representing" data as GUI (brief, page 6). Appellant further points out that Burkett, in column 1, lines 21-34, merely describes automatic updating of GUI without teaching how GUI is used to modify the information (brief, page 7).

In response, the Examiner urges that Burkett's display of the XML file in the GUI display space allows the user to dynamically change the data (answer, page 8). The Examiner further argues that since Figures 6A-6F, 13A-13B and 15 show that "data items are displayed within a graphical tree and each node may be addressable and selectable by the user for editing," Burkett teaches both a panel for showing the parameter structure and "a means for altering or editing the contents" (answer, page 10).

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). To reach a conclusion of obviousness under § 103, the examiner must produce a factual basis supported by teaching in a prior art reference or shown to be common knowledge of unquestionable demonstration. Such evidence is required in order to establish a prima facie case. In re Piasecki, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787-88 (Fed. Cir. 1984).

A review of the applied prior art confirms that Burkett includes a GUI display representing the data parameters which can be automatically updated (abstract). Although Burkett mentions that the GUI can be updated dynamically in response to user

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requests and without requiring code modification and recompiling (col. 1, lines 38-49), we agree with Appellant that the disclosure includes no detailed description of how the changes are made by the user. Figures 6A-6F, 13A-13B merely show display layouts that represent different configurations of the display such as "table" and "tree" configurations (col. 6, lines 8-24) or an XML data display layout (col. 9, lines 9-20).

Additionally, we find the Examiner's conclusion (answer, page 8) that the data in the GUI display can be changed by the user, to be speculative since there is nothing in Burkett that positively describes the claimed edit panel and a navigator panel included in the GUI display. As pointed out by Appellant (reply brief, page 2), what the Examiner relies on as the means for editing the parameters, is merely a general suggestion of updating the GUI interface in response to modifications to the program, not a specific way of displaying the data parameters for modifications, let alone the claimed GUI display having a navigator panel and an edit panel. Even if the "tree" and the "table" configurations of Burkett appear to be arrangements that may facilitate navigation or editing, the Examiner has not pointed to any evidentiary support in the reference to indicate that such panels are included in the GUI or contain text-editable sub-fields, as recited in claim 1.

Betawar, on the other hand, discloses a recipe editor for semiconductor manufacturing processes (abstract) which add nothing to Burkett to overcome the deficiencies discussed above. As discussed above, although some kind of GUI display and editing of the data is recognized by the references, we do not find them to be indicative of the claimed editable parameters in the edit panel included in the GUI file along with the navigator panel, as recited in all of the independent claims. Therefore, as the Examiner has failed to set forth a prima facie case of obviousness, we do not sustain the 35 U.S.C. § 103 rejection of independent claims 1, 8, 18 and 22 as well as claims 2-6, 9-11, 19-21 and 23-27, dependent thereon.

CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-6, 8-11 and 18-27 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON)
Administrative Patent Judge)
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) BOARD OF PATENT
STUART S. LEVY) APPEALS
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